

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

LARON DAWN, INDIVIDUALLY AND ON )  
BEHALF OF ALL OTHERS, )  
 )  
Plaintiffs, )  
 )  
vs. ) Case No.: 2:14-CV-4114  
 )  
CHOICE HOTELS INTERNATIONAL, INC., ) Cole County, Missouri  
D/B/A QUALITY INN, ) Case No.: 14AC-CC00114  
 )  
Defendant. )

***DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S PETITION OR, IN THE  
ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT***

COMES NOW Defendant Choice Hotels International, Inc., improperly pled as Choice Hotels International, Inc., d/b/a Quality Inn (hereinafter "CHI"), and hereby moves this Court to dismiss Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), for failure to state a claim upon which relief can be granted, 12(b)(7), for failure to join a party under Rule 19 or, in the alternative, Rule 12(e) for more definite statement, and Local Rule 7.0. In support thereof, Defendant states as follows:

1. On or about March 7, 2014, Plaintiff filed his Petition asserting one count against CHI, alleging a violation of the Fair Credit Reporting Act ("FCRA"), 25 U.S.C. § 1681 *et seq.*
2. Plaintiff's Petition alleges that Defendant, through its acts and/or omissions, violated the FCRA in a number of respects, including:
  - Taking an adverse employment action against the Plaintiff based on information contained in a consumer report without first providing Plaintiff with a pre-adverse action notice;

- Filing to provide Plaintiff with a copy of the consumer report prior to taking adverse employment action against Plaintiff;
- Failing to provide Plaintiff with a reasonable time to address the content of the consumer report prior to taking adverse employment action against Plaintiff;
- Failing to provide Plaintiff with a written description of his rights under the FCRA prior to taking adverse employment action; and
- Failing to provide Plaintiff with a pre-adverse action notice and allowing him to address any possible inaccuracy in the consumer report before he was informed he could not be hired by the Defendant.

(See Pl.'s Pet., attached as Exhibit A to Defendant's Notice of Removal, ¶¶ 5-9).

3. Plaintiff's Petition alleges, vaguely, that the above-mentioned actions occurred after he applied for work with Defendant in 2013, in Jackson County, Missouri. (*Id.* at ¶ 18).
4. However, this allegation fails to identify the specific date and location at which the purported violation of the FCRA occurred, in violation of the Federal Rules of Civil Procedure's notice pleading requirements, as set forth in Rule 8.
5. Without such information, CHI cannot determine whether it actually owns and/or operates the location at issue, and whether it owned and/or operated the location at the date of the purported violation of the FCRA.
6. Furthermore, without said information it is unknown whether additional necessary parties as defined by Rule 19 of the Federal Rules of Civil Procedure, may be necessary in order to ensure complete resolution of this matter, requiring dismissal of this suit pursuant to Rule 12(b)(7).
7. In the alternative, and without waiving its arguments set forth above, pursuant to Rule 12(e), CHI requests the Court order Plaintiff to plead its claims with more particularity as to allow CHI to file a responsive pleading.

WHEREFORE, for the reasons stated hereinabove, Defendant Choice Hotels International, Inc., improperly pled as Choice Hotels International, Inc., d/b/a Quality Inn,

respectfully requests this Court grant its motion and order it dismissed from this lawsuit with prejudice, or in the alternative, that this Court grant CHI's Motion for More Definite Statement, for its fees and costs herein expended and for such other and further relief as this Court deems just and proper.

/s/ Seth G. Gausnell

---

Seth G. Gausnell  
Federal Registration No. 35767  
PITZER SNODGRASS, P.C.  
Attorney for Defendant  
100 South Fourth Street, Suite 400  
St. Louis, Missouri 63102-1821  
(314) 421-5545  
(314) 421-3144 (Fax)

**AFFIDAVIT OF SERVICE**

I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court this 2nd day of May, 2014, to be served by operation of the Court's electronic filing system upon the following or U.S. mail for parties not registered with CM/ECF, on this 2nd day of May, 2014:

Charles Jason Brown  
Jayson A. Watkins  
Brown & Associates, LLC  
301 S. US 169 Hwy  
Gower, Missouri 64454  
Attorney for Plaintiff

/s/ Seth G. Gausnell

---